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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,574	07/22/2003	Mateo Jozef Jacques Mayer	116632	6548
25944	7590	01/24/2006		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER JOHNSON, EDWARD M	
			ART UNIT 1754	PAPER NUMBER
DATE MAILED: 01/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/623,574

Applicant(s)

MAYER ET AL.

Examiner

Edward M. Johnson

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 4-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, "the K and/or Br and/or SO<sub>4</sub> and/or Ca content" lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1 and 4-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Popp US 5,433,950 in view of Ninane et al. US 5,154,909 and Bieler US 4,094,956.

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Regarding claim 1, Popp '950 discloses a method of forming a colloidion comprising forming a salt (see column 4, lines 24-34) and a crystal growth inhibitor comprising sucrose acetate isobutyrate (see column 5, lines 15-32). Popp further discloses 1-60% crystal growth inhibitor (see column 5, lines 62-66); calcium pantothenate (see column 3, lines 37-40), which would at least motivate washing to purify the disclosed salt; and specific anions and cations (see column 4, lines 24-29), which would at least motivate a bulk density of 0.7 g/cc or higher and electrolysis.

Popp '950 fails to disclose forming an octahedral or spherical, high purity salt.

Ninane '909 discloses spherical salt.

It would have been obvious to one of ordinary skill in the art at the time the invention was made make the salt of Popp in a spherical form, as in Ninane, because Ninane discloses the spherical salt has properties of pan-salt, which value for salt-preserving methods (see column 1, lines 19-30 and 52-54), which would motivate one of ordinary skill to use the spherical form in order to preserve the crystallized salt.

Popp fails to disclose wherein the K and/or Br and/or SO<sub>4</sub> and/or Ca content is at least 5% lower.

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Bieler '956 discloses removal of sulfate content from a salt (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove sulfates from the salt in Popp by using the washing in Bieler because Bieler discloses the washing to remove sulfates to provide a minimally expensive method of upgrading the salt (see column 1, lines 26-29) and Popp discloses a salt can be formed in situ (see column 4, lines 30-31), which would obviously, to one of ordinary skill, suggest the desirability of a high purity of the disclosed in situ salt.

Regarding claims 10-12, Popp '950 discloses specific anions and cations (see column 4, lines 24-29), which would at least motivate a bulk density of 0.7 g/cc or higher and electrolysis.

Regarding claim 5, Popp '950 discloses rapidly drying (see column 3, lines 54-57).

Regarding claims 6-7 and 9, Popp '950 discloses sucrose acetate isobutyrate (see column 5, lines 15-32).

Regarding claims 4 and 8, Popp '950 discloses calcium pantothenate (see column 3, lines 37-40), which would at least motivate washing to purify the disclosed salt.

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5. Claims 1 and 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox et al. US 5,215,769 in view of Ninane '909 and Bieler US 4,094,956.

Regarding claim 1, Fox '769 discloses a method of crystallizing a metastable complex salt (abstract) comprising forming emulsified product containing a crystallization inhibitor such as sucrose ester (see column 13, lines 33-38). Fox further '769 discloses salad dressing, which would suggest washing to allow for safe consumption; calcium citrate and malate, and forming insoluble salts or soaps with long chain fatty acids (see abstract), which would at least suggest a bulk density of 0.7 g/cc or higher and electrolysis.

Fox '769 fails to disclose forming a high purity salt.

Ninane '909 discloses spherical salt.

It would have been obvious to one of ordinary skill in the art at the time the invention was made make the edible dressing salt of Fox in a spherical form, as in the Ninane food industry salt, because Ninane discloses the spherical salt has properties of pan-salt, which value for salt-preserving methods (see column 1, lines 19-30 and 52-54), which would motivate one of ordinary skill to use the spherical form in order to preserve the crystallized salt.

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Fox '769 fails to disclose wherein the K and/or Br and/or  $\text{SO}_4$  and/or Ca content is at least 5% lower.

Bieler '956 discloses removal of sulfate content from a salt (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove sulfates from the salt in Popp by using the washing in Bieler because Bieler discloses the washing to remove sulfates to provide a minimally expensive method of upgrading the salt (see column 1, lines 26-29) and Fox discloses crystallizing a metastable complex salt (abstract), which would obviously, to one of ordinary skill, suggest the desirability of a high purity of the disclosed metastable salt.

Regarding claims 4 and 10-12, Fox '769 discloses salad dressing, which would suggest washing to allow for safe consumption; calcium citrate and malate, and forming insoluble salts or soaps with long chain fatty acids (see abstract), which would at least suggest a bulk density of 0.7 g/cc or higher and electrolysis.

Regarding claim 5, Fox '769 discloses drying (see column 5, lines 42-65).

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Regarding claims 6-9, Fox '769 discloses sucrose ester (see column 13, lines 33-38) calcium citrate and malate (see abstract).

***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Oura et al. US 5,814,359 discloses the known purification of "common salt" to remove calcium and magnesium to 10 ppb or less (see column 2, lines 25-43).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 571-272-1352. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edward M. Johnson  
Primary Examiner  
Art Unit 1754

EMJ